

Appl. No. 09/808,377
Amdt. Dated October 14, 2004
Reply to Office Action of August 16, 2004

REMARKS

Claims 1, 3, 4, 5, 6, 11, 12, and 21 remain pending.
Claim 22 is new. Claims 1, 3, 4, 5, 11, and 21 are each
5 currently amended. Claims 2, 7 through 10, and 13 through 20
have been canceled.

Claim 20 is objected to because of informalities. This
objection is moot in that Claim 20 has been canceled.

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"Claims 1-2, 4-7 and 9-21 are rejected under 35 U.S.C.
103(e) as being anticipated by Ogino (US Patent #6,762,794)."
Also, "Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as
being unpatentable over Ogino (US Patent #6,762,794)." As
15 will be discussed below, the claims as now presented are not
anticipated or made obvious by the teachings of Ogino.

Claim 1 (currently amended) is now claiming from amongst
other elements -- . . . stereo imaging means . . . including: a
20 camera; and set of mirrors angled with respect to each other
at a predetermined angle relative to a common plane
intersecting said camera, each mirror having adjacent ends
disposed a predetermined distance from the camera along the

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common plane, for directing light from an object reflected in said mirrors directly to the camera, for producing a stereo effect in the output of the camera --. As shown in Figure 10 of Ogino, and as taught therein, Ogino does not teach the use 5 of a camera and a set of mirrors as claimed in Claim 1 (currently amended). For example, the mirrors 1107 and 1112 of Ogino are not arranged for directing light from an object directly to a camera, nor are the mirrors angled with respect to each other along a common plane intersecting the camera, as 10 now claimed. Clearly, Claim 1 (currently amended) is now claiming a combination of elements for a stereo camera system that is completely different than that of Ogino. According, Claim 1 (currently amended) is patentable.

15 Claims 3 through 5, each as currently amended are now dependent from Claim 1 (currently amended), dependent Claim 6 dependent from Claim 5 and ultimately dependent from Claim 1 (currently amended), and Claim 11 (currently amended) to depend from Claim 1, are each patentable for at least the same 20 reasons as Claim 1 (currently amended).

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Claim 21 (currently amended) is now claiming the following:

A method for adjusting a stereo camera system to control spatial resolution of an object of interest in the field of view of a stereo imaging means, the method comprising the steps of:

5 outputting at least one image from the stereo imaging means;

10 locating an object of interest in the field of view of the stereo imaging means and at least one of the distance of the object of interest from the stereo imaging means and the size of the object of interest;

15 automatically changing at least one system parameter which affects the spatial resolution of the object of interest based on at least one of the located distance of the object of interest from the stereo imaging means and the size of the object of interest; and

20 providing said stereo imaging means by further including the steps of:

using a camera to receive light from said object;
establishing a predetermined angle between a set of mirrors, the angle being relative to a common plane intersecting said camera, and adjacent ends of said mirrors; and

25 establishing a predetermined distance from the camera and the adjacent ends of said mirrors for reflecting light from said object from mirrors to said

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camera, for producing a stereo effect in the output of the camera.

Claim 21 (currently amended) is claiming a combination of 5 steps for a method for adjusting a stereo camera system not anticipated or made obvious by Ogino. More specifically, Ogino teaches away from such a combination of steps, and particularly does not show or in any way suggest the steps of -- . . . establishing a predetermined angle between a set of 10 mirrors, the angle being relative to a common plane intersecting said camera and adjacent ends of said mirrors; and establishing a predetermined distance from the camera and the adjacent ends of said mirrors for reflecting light from said object from said mirrors to said camera, for producing a 15 stereo effect in the output of the camera. --. Accordingly, Claim 21 (currently amended) is patentable over Ogino.

New Claim 22 is claiming a stereo camera system that comprises a plurality of elements not found in Ogino, or made 20 obvious by Ogino. For example, Claim 22 is claiming from amongst these elements -- . . . adjusting means comprises:

angle adjustment means for adjusting the predetermined angle of at least one of the two cameras;

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baseline adjustment means for adjusting the predetermined distance between the two cameras;
distance adjusting means for adjusting a distance between at least one of the two cameras and the object of
5 interest; and

focal length adjustment means for changing a focal length of at least one of the two cameras. --.

As taught in column 5, lines 40 through 47, referred to by the Examiner, Ogino does teach the use of an "unshown mechanism" 10 for adjusting the angle between the optical system's 101/103 and 102/104, and the distance therebetween, **but Ogino does not teach the use of - - . . . distance adjusting means for adjusting a distance between at least one of the two cameras and the object of interest. . . --, nor the use of - - . . .** 15 focal length adjustment means for changing a focal length of at least one of the two cameras. -- As called for in Claim 22. Accordingly, Claim 22 is patentable over Ogino.

The undersigned would like to bring to the Examiner's 20 attention case law that clearly advises why Ogino does not make Applicants' invention as claimed obvious. The courts have long held that there must be some teaching in the references cited to suggest the combination of the references in a manner to obtain the combination of elements of the rejected 25 claim(s). It is well known that in order for any prior art references themselves to be validly combined for use in a

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prior-art § 103 rejection, the references themselves, or some other prior art, must suggest that they be combined. For example:

5 The Board has stated in Ex parte Levengood, 28 USPQ 2d 1300 (PTOBA&I 1993) :

"In order to establish prima facie case of obviousness, it is necessary for the examiner to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge, that one having ordinary skill in the art would have been led to combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. ... That which is within the capabilities of one skilled in the art is not synonymous with obviousness. ...That one can reconstruct and/or explain the theoretical mechanism of an invention by means of logic and sound scientific reasoning does not afford the basis for an obviousness conclusion unless that logic and reasoning also supplies sufficient impetus to have led one of ordinary skill in the art to combine the teachings of the references to make the claimed invention.... Our reviewing courts have often advised the Patent and Trademark Office that it can satisfy the burden establishing a prima facie case of obviousness only by showing some objective teaching in either the prior art, or knowledge generally available to one of

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ordinary skill in the art, that 'would lead' that individual 'to combine the relevant teachings of the references which describe various aspects of a patent applicant's invention without also providing evidence of a motivating force which would impel one skilled in the art to do what the patent applicant has done."

As was further stated in Uniroyal, Inc. v. Rudkin-Wiley Corp., 5 U.S.P.Q.2d 1434 (C.A.F.C. 1988),

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"where prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than hindsight gleaned from the invention itself Something in the prior art must suggest the desirability and thus the obviousness of making the combination."

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Also, the case law is clear in guarding against the use of hindsight in reading Applicants invention into the prior art, which art is clearly not disclosing the Applicants invention as claimed. Applicants would like to bring the following cases to the Examiner's attention:

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The Supreme Court in Calmar, Inc. v. Cook Chemical Co., 383 U.S. 1, 86 S.Ct. 684, 15 L.Ed.2d 545 (1966), in which the Court warns the dangers of "slipping into hindsight", citing the case of Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co., 332 F.2d 406, 141 U.S.P.Q. 549 (6th Cir., 1964), where the doctrine is

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stated:

We now come to the patented device which after all is
the subject matter of this case. At the outset we
5 take note of two well-established principles. The
first is that in considering the questions of
obviousness, we must view the prior art from the point
in time prior to when the patented device was made.
Many things may seem obvious after they have been made
10 and for this reason courts should guard against
slipping into use of hindsight. We must be careful to
"view the prior art without reading into that art the
teachings of appellant's invention." Application of
Sporck, 301 F.2d 686, 689 (C.C.P.A.).

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Applicants have reviewed the references cited by the
Examiner but not replied upon, and believe that the teachings
of these references whether taken individually or in any
combination with one another or with the references relied
20 upon by the Examiner, do not anticipate or make obvious the
claims as now presented. Accordingly, the present invention
as now claimed is free of all of the cited references.

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The claims as now presented are in condition for allowance. Accordingly, it is respectfully requested that the claims be allowed and the case passed on to issue.

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Respectfully submitted,



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Kenneth Watov, Esquire
Registration No. 26,042
Attorney for Applicants

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Please Address All Correspondence to:
Gregory L. Thorne, Esq., Reg. No. 39,398
Philips Intellectual Property & Standards
20 P.O. Box 3001
Briarcliff Manor, NY 10510
(914) 945-6000

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